

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

KIMBERLY CLAY,)
)
)
Plaintiff,)
)
)
vs.) **CASE NO.** _____
)
ALABAMA SPACE SCIENCE)
EXHIBIT COMMISSION)
(d/b/a U.S. SPACE & ROCKET)
CENTER))
)
Defendant.)

COMPLAINT

COMES NOW Kimberly Clay, Plaintiff in the above-styled action, files her Complaint against the Alabama Space Science Exhibit Commission (d/b/a the U.S. Space & Rocket Center), and states as follows:

JURISDICTION AND VENUE

1. All of the events, transactions or occurrences which gave rise to Plaintiff's claims took place in this Judicial District. Therefore, venue is proper in this district and this division pursuant to 28 U.S.C. § 1391(b)(1).

2. Federal jurisdiction exists pursuant to 28 U.S.C. § 1331 as to Plaintiff's claim violation of the Age Discrimination in Employment Act, 29 U.S.C. § 621, *et seq.* ("ADEA").

3. This Court maintains subject matter jurisdiction under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. § 1333(a)(4).

PARTIES

4. Plaintiff, Kimberly Clay, is above the age of nineteen (19) and is a resident of Huntsville, Alabama.

5. Defendant, the Alabama Space Science Exhibit Commission (d/b/a the U.S. Space & Rocket Center) (henceforth “Space and Rocket Center”) is a domestic corporation, doing business in the State of Alabama, within the Northern District of Alabama.

CONDITIONS PRECEDENT

6. Plaintiff has exhausted all administrative remedies, as mandated by 29 U.S.C. § 626(d)(1), by filing a Charge of Discrimination with the Equal Employment Opportunity Commission on June 07, 2021 alleging discrimination by Defendant, a copy of which is attached hereto as Exhibit A and its terms incorporated by reference as if fully set out herein.

7. The Equal Employment Opportunity Commission issued Plaintiff a Right to Sue Letter, dated March 28, 2022, a copy of which is attached hereto as Exhibit B and its terms incorporated by reference as if fully set out herein.

8. Plaintiff has satisfied all conditions precedent to the filing of the instant Complaint.

FACTS

9. Plaintiff restates and realleges the allegations contained in paragraphs 1 through 8 as if fully set out herein.

10. Plaintiff was originally hired at the Space & Rocket Center on April 12, 2021, as the Retail Sales Manager.

11. Plaintiff reported directly to her Supervisor, Katie Anderson.

12. Katie Anderson would direct negative comments against the older workers, including comments like “it smells like old ladies in here” and called the women who worked under the Plaintiff part of the “old ladies’ club.”

13. On April 27, 2021, one of Plaintiff’s employees who was over 40 left early without permission, as the younger employees often did without any repercussion. Anderson, her supervisor, told Plaintiff to fire the older employee even though younger employees were often allowed to do the same thing without any negative action.

14. On May 4, 2021, Plaintiff explained to HR representative Kimberly Sherrod that the younger employees were not held to the same standard by her supervisor, Anderson, as the older workers, and often arrive late, leave early and take two-hour lunches without receiving discipline.

15. The HR representative told the Plaintiff that she should stop the younger workers from arriving late, leaving early and taking long lunches.

16. Katie Anderson was in Sherrod's office and heard this at the time, although Plaintiff was not aware of her presence. Anderson later told the Plaintiff she needed to watch what she says to her (younger) employees and how she says it.

17. Plaintiff was instructed to fire Martha Jones, sixty-two years old.

18. On or around May 7, 2021, Anderson went out on maternity leave and was temporarily replaced by Christopher Marrazzo, a 29-year-old male.

19. On May 19, 2021, Plaintiff filed a formal complaint with HR for the treatment of older workers.

20. On May 20, 2021, Plaintiff was terminated.

21. On May 21, 2021, Mr. Marrazzo told a former colleague that Plaintiff was "emotionally unstable."

22. Plaintiff was replaced with Kiona Wright, a 26-year-old female with very little experience.

CAUSES OF ACTION

Age Discrimination in Employment Act (29 U.S.C. § 623)

23. Plaintiff repeats and re-alleges the allegations contained in paragraph 1 through 22 above, as if fully set forth herein.

24. Plaintiff is a member of a protected class inasmuch as she was above

the age of forty (40) years of age at the time of his demotion and termination.

25. At the time of her termination, Plaintiff was performing her job duties at a level that met Defendant's legitimate expectations.

26. After Plaintiff's termination, she was replaced by a substantially younger employee.

27. Plaintiff's termination was because of her age in violation of 29 U.S.C. §623.

28. By reason of the foregoing, Plaintiff is entitled to the declaratory and injunctive relief as set forth below.

Count II

Violation of the Retaliation Provisions of the Age Discrimination in Employment Act (29 U.S.C. § 621)

29. Plaintiff repeats and reallege the allegations contained in paragraph 1 through 22 above, as if fully set forth herein.

30. Plaintiff engaged in ADEA protected expression by complaining about the treatment of older employees and the disparate treatment to the disadvantage of older women.

31. Plaintiff was terminated by the Defendants and replaced by a younger employee.

32. The above actions constituted an adverse employment action and were

due to Plaintiff's complaints of age discrimination.

33. By reason of the foregoing, Plaintiff is entitled to the declaratory and injunctive relief as set forth below.

PRAYER FOR RELIEF

The Plaintiff has suffered, is now suffering, and will continue to suffer emotional distress, pain, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses as a direct result of the Defendant's violation of the Age Discrimination in Employment Act 29 U.S.C. § 621.

WHEREFORE, the Plaintiff prays that this Court:

- a. Declare the conduct engaged in by the Defendant, the U.S. Space & Rocket Center, to be in violation of the Plaintiff's rights;
- b. Enjoin the Defendant, the U.S. Space & Rocket Center, from engaging in such conduct in the future;
- c. Award the Plaintiff back pay and an equal amount in liquidated damages, in an amount to be determined by this Court;
- d. Award the Plaintiff interest, costs, and attorneys' fees; and
- e. Grant such further and other, different and relief, including equitable, as this Court deems just and proper.

JURY DEMAND

Plaintiff demands trial by jury on all issues triable at law.

Dated this the 24th day of June, 2022.

/s/ Eric J. Artrip

Eric J. Artrip (ASB-9673-I68E)
Teri R. Mastando (ASB-4507-E53T)
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DEFENDANT TO BE SERVED AT THE FOLLOWING ADDRESS:

Alabama Space Science Exhibit Commission (d/b/a U.S. Space & Rocket Center)
One Tranquility Base,
Huntsville, AL 35805.